REMARKS / ARGUMENTS

The present application includes pending claims 1-24, all of which have been rejected. The Applicant respectfully submits that the claims define patentable subject matter.

Claims 1, 3-5, 7, 10-12, 14-16, 18, 23-24 are rejected under 35 U.S.C. § 102(e) as being anticipated by Battle, et al. (US Patent № 7,136,381, hereinafter, Battle). Claims 2, 6, 8-9, 13, 17, 19-22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Battle in view of U.S. Patent No. 6,484,261, issued to Wieget (hereinafter, Wieget). The Applicant respectfully traverses these rejections at least based on the following remarks.

REJECTION UNDER 35 U.S.C. § 102

I.   Battle Does Not Anticipate Claims 1, 3-5, 7, 10-12, 14-16, 18, 23-24

The Applicant first turns to the rejection of claims 1, 3-5, 7, 10-12, 14-16, 18, 23-24 under 35 U.S.C. 102(e) as being anticipated by Battle. With regard to the anticipation rejections under 102(e), MPEP 2131 states that "[a] claim is anticipated only if **each and every element** as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." See Manual of Patent Examining Procedure (MPEP) at 2131 (internal citation omitted).

Furthermore, "[t]he identical invention must be shown in as complete detail as is contained in the … claim." See id. (internal citation omitted).

A. Rejection of Independent Claims 1 and 12 under 35 U.S.C. § 102 (e)

With regard to the rejection of independent claim 1 under 35 U.S.C. § 102(e), without acknowledging that Battle qualifies as prior art under 35 U.S.C. § 102(e), the Applicant submits that Battle does not disclose or suggest at least the limitation of "comparing said destination port bit map with a physical port security bit map to generate a bit map of allowed destination ports, wherein said physical port security bit map is generated based on information in said received frame of digital data," as recited by the Applicant in independent claim 1.

The Office Action states the following:

> comparing said destination port bit map with a physical port security bit map to generate a bit map of allowed destination ports, wherein said physical port security bit map [i.e., var:PORTBITMAP] is generated based on information in said received frame of digital data (see e.g. figure 6, element 'Does any port in var:PORTBITMAP belong to a trunk group in the trunk table', element 'Calculate the HASH using the DA [Le., destination address] and SA [i.e., source near address] in the packet'; and column 6, lines 12-30, particular note 'RTAG 2 RTAG identifies the trunk selection criteria for this trunk group 0: based on DA [i.e., destination address] + SA [i.e., source address]', of Battle, emphasis added).

See the Office Action at page 3. Apparently, the Examiner is equating Battle's "var:PORTBITMAP" variable to Applicant's "physical port security bit map." The Applicant respectfully disagrees and points out that Battle's **var:PORTBITMAP is in fact the destination port bit map,** which is generated pursuant to Battle's FIG. 4, and **var:PORTBITMAP is not a separate physical port security bit map.**

Referring to FIG. 4 of Battle, the Applicant points out that after the var:PORTBITMAP variable is initialized (top of flow chart), then the opcode is determined using the module header. Based on the determined opcode, a determination is made as to the type of packet and the corresponding var:PORTBITMAP variable is set. In other words, the destination port bit map is determined, once the type of packet is determined based on the opcode in the header. *See* Battle at FIG. 4 and col. 7, lines 30-43.

FIGS. 5 and 6 of Battle continue the logical flow of FIG. 4. For example, FIG. 5 discloses modifications to the destination port bit map (var:PORTBITMAP), based on whether or not the packet has been mirrored. **FIG. 6 discloses modifications to the destination port bit map (var:PORTBITMAP), if the ingress port is a member of a trunk group. In this regard, FIG. 6 of Battle does not disclose or suggest generation of a separate physical port security bit map.** In fact, as stated above, var:PORTBITMAP is the destination port bit map and it was initialized and generated as described in reference to FIG. 4. In FIG. 6 of Battle, var:PORTBITMAP is simply being modified based on whether or

not the ingress port is a member of a trunk group. This modification step is clearly seen in the last action block (last rectangle) before the decision block in FIG. 6. Namely, all the trunk ports that belong to the trunk group are removed from var:PORTBITMAP and then the trunk port corresponding to Trunk_Port_Number is obtained and added back to the var:PORTBITMAP. In summary, Battle does not disclose or suggest generation of a separate physical port security bit map and comparing the destination port bit map to any physical security port bit map.

Therefore, the Applicant maintains that Battle does not disclose or suggest at least the limitation of "comparing said destination port bit map with a physical port security bit map to generate a bit map of allowed destination ports, wherein said physical port security bit map is generated based on information in said received frame of digital data," as recited by the Applicant in independent claim 1.

Accordingly, independent claim 1 is not anticipated by Battle and is allowable. Independent claim 12 is similar in many respects to the method disclosed in independent claim 1. Therefore, the Applicant submits that independent claim 12 is also allowable over the references cited in the Office Action at least for the reasons stated above with regard to claim 1.

B.   Rejection of Dependent Claims 3-5, 7, 10-11, 14-16, 18, and 23-24

Based on at least the foregoing, the Applicant believes the rejection of independent claims 1 and 12 under 35 U.S.C. § 102(e) as being anticipated by Battle has been overcome and request that the rejection be withdrawn. Additionally, claims 3-5, 7, 10-11, 14-16, 18, and 23-24 depend from independent claims 1 and 12, respectively, and are, consequently, also respectfully submitted to be allowable.

Applicant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 1, 3-5, 7, 10-12, 14-16, 18, and 23-24.

REJECTION UNDER 35 U.S.C. § 103

In order for a *prima facie* case of obviousness to be established, the Manual of Patent Examining Procedure ("MPEP") states the following:

> First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or combine the teaching. Second, there must be a reasonable expectation of success. Finally, **the prior art reference (or references when combined) must teach or suggest all the claim limitations.** The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure.

See MPEP at § 2142, citing *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991) (emphasis added). Further, MPEP § 2143.01 states that "the mere fact that

references can be combined or modified does not render the resultant combination

obvious unless the prior art suggests the desirability of the combination," and that

"although a prior art device 'may be capable of being modified to run the way the

apparatus is claimed, there must be *a suggestion or motivation in the reference* to

do so'" (citing In re Mills, 916 F.2d 680, 16 USPQ 2d 1430 (Fed. Cir. 1990)).

Moreover, MPEP § 2143.01 also states that the level of ordinary skill in the art

cannot be relied upon to provide the suggestion...," citing Al-Site Corp. v. VSI Int'l

Inc., 174 F.3d 1308, 50 USPQ 2d 1161 (Fed. Cir. 1999). Additionally, if a *prima*

facie case of obviousness is not established, the Applicant is under no obligation

to submit evidence of nonobviousness.

> The examiner bears the initial burden of factually supporting any
> *prima facie* conclusion of obviousness. If the examiner does not
> produce a *prima facie* case, the applicant is under no obligation to
> submit evidence of nonobviousness.

See MPEP at § 2142.

II.   The Proposed Combination of Battle and Wieget Does Not Render Claims 2, 6, 8-9, 13, 17, and 19-22 Unpatentable

Based on at least the foregoing, the Applicant believes the rejection of

independent claims 1 and 12 under 35 U.S.C. § 102(e) as being anticipated by

Battle has been overcome and request that the rejection be withdrawn.

Additionally, since the additional cited reference (Wieget) does not overcome the

deficiencies of Battle, claims 2, 6, 8-9, 13, 17, and 19-22 depend from independent

claims 1 and 12, and are, consequently, also respectfully submitted to be allowable.

Applicant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 2, 6, 8-9, 13, 17, and 19-22.

CONCLUSION

Based on at least the foregoing, the Applicant believes that all claims 1-24 are in condition for allowance. If the Examiner disagrees, the Applicant respectfully requests a telephone interview, and requests that the Examiner telephone the undersigned Attorney at (312) 775-8176.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to the deposit account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

A Notice of Allowability is courteously solicited.

Respectfully submitted,

Date: 22-JAN-2008

/Ognyan I. Beremski/

Ognyan Beremski, Esq.
Registration No. 51,458
Attorney for Applicant

McANDREWS, HELD & MALLOY, LTD.
500 WEST MADISON STREET, 34TH FLOOR
CHICAGO, ILLINOIS 60661
(312) 775-8000

/ OIB